

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

SHAWN-ANTHONY ARNDT,

Plaintiff,

vs.

COMMONWEALTH OF
PENNSYLVANIA, COUNTY OF YORK,
MICHAEL E. BORTNER, JONELLE H.
ESHBACH, DAVID BIXLER, and
MATTHEW EMIG,

Defendants.

CIVIL ACTION NO. 3:12-0013

(KOSIK, D.J.)

**FILED
SCRANTON**

JUL 11 2012

PER M. E. Mannion
DEPUTY CLERK

MEMORANDUM AND ORDER

AND NOW, THIS 11th DAY OF JULY, 2012, IT APPEARING TO THE
COURT THAT:

- (1) Plaintiff, Shawn-Anthony Arndt, a prisoner confined at the State Correctional Institution, Waymart, Pennsylvania, filed the instant civil rights action pursuant 42 U.S.C. § 1983 on January 4, 2012;
- (2) In his filings, plaintiff alleges violations of his civil rights in relation to his arrest and conviction in York County;
- (3) The action was assigned to Magistrate Judge Malachy E. Mannion for Report and Recommendation;
- (4) On June 4, 2012, the Magistrate Judge issued a Report and Recommendation (Doc. 26) wherein he recommended that the motion to proceed in forma pauperis be granted and the complaint be dismissed;
- (5) Specifically, the Magistrate Judge found that because the plaintiff is challenging the conditions of his state court conviction, his claim is barred by Heck v. Humphrey, 512 U.S. 477 (1994). Moreover, plaintiff had an appeal pending in the Pennsylvania Superior Court;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation.

AND, IT FURTHER APPEARING THAT:


(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F. 2d 874, 878 (3d Cir. 1987).

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation.

(9) After reviewing the record, we agree with the Magistrate Judge that the plaintiff's claim is barred by Heck.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

- (1) The Report and Recommendation of Magistrate Judge Malachy E. Mannion dated June 4, 2012 (Doc. 26) is **ADOPTED**;
- (2) Plaintiff's motion to proceed in forma pauperis (Doc. 9) is **GRANTED**;
- (3) The Plaintiff's complaint is **DISMISSED**; and
- (4) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge.



Edwin M. Kosik
United States District Judge